

In re) Fair Hearing No. 10,696
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Appeal of)

The petitioner appeals the Department of Social Welfare's determination that he is not eligible for Medicaid because his income is above maximum levels set by regulation.

1. The petitioner is a seventy-one-year-old man who lives outside of Chittenden County with his seventy-year-old wife and an adult child who has been laid off of work. He and his wife have income of \$987.80 per month derived from Social Security payments. From this they pay \$63.80 per month for Medicare. They also have private insurance through Blue Cross and Blue Shield which, when added to their Medicare payments, results in total health care premiums of about \$182.61 per month.

2. In addition to Social Security benefits, the petitioner also has income from the rental of half of the duplex building in which he lives. His income from the unit is \$400.00 per month. His expenses (taxes, insurance, water and sewer) on the apartment are \$160.53, resulting in a net income of \$239.47.

3. Those figures were used by the Department to

calculate the petitioner's eligibility as follows:

	\$987.80	- gross unearned income
-	<u>20.00</u>	- disregard
	\$967.80	- net unearned income
	\$239.49	- self-employment earned income from rental
unit		
-	<u>119.74</u>	- business expenses \$239.47 divided by 2
	\$ 65.00	- remainder of disregard
	<u>184.74</u>	- total deduction
	\$ 54.73	
	\$967.80	
+	<u>54.73</u>	
	\$1,022.53	- countable net income

4. The petitioner's countable net income of \$1,022.53 was compared with the \$700.00 maximum protected income level (outside Chittenden County) and the petitioner was found to be over income. The difference between those two figures, \$322.53, was used to compute the petitioner's "applied income" level, that is, the amount considered available to meet medical expenses each month. The petitioner's health care premium of \$182.61 per month was deducted from the \$322.53 figure, leaving a \$139.92 per month "spend down" amount. A figure of \$839.50 (\$139.92 x 6) for the six month period was used by the Department to calculate spend-downs.

5. The petitioner has considerable monthly expenses for medical visits and prescription medicine for himself and his wife which he says he cannot afford to pay. The petitioner was advised by the Department to keep all his bills for medical expenses and to bring them in for review when they get close to the \$839.00 mark. If he goes over \$839.00, he has been told that he and his wife will be eligible for Medicaid.

ORDER

The Department's decision is affirmed.

REASONS

There is no question that as a person over the age of sixty-five, the petitioner is categorically eligible for Medicaid under M 211.1. However, he still must meet financial eligibility requirements in the regulations which place a \$700.00 maximum on the income of a two person household.¹ M 240, P-2420(b)

Gross Social Security payments are specifically included as countable income in the regulations. M 242.

The petitioner's countable gross income was, therefore, correctly determined to be \$987.80 per month. The petitioner's earned income from self-employment (the rental unit) is also included after the expenses of creating that income (utilities and taxes are deducted.) M 241 and 241.2(1). That figure in this case is \$239.49 (\$400.00 rent - \$163.00 expenses).

After this total is figured, the regulations specifically set forth a method for determining an applicant couples' net income for eligibility based on a series of deductions as follows:

Determining Net Income for an Applicant/Recipient Individual or an Applicant/Recipient Couple

The following steps must be followed in determining the net countable income of an aged, blind or disabled adult applicant(s) or recipient(s):

- (1) Determine and combine the total countable unearned

income of the applicant(s) or recipient(s) including the unearned income of an ineligible or non-applicant spouse who resides with the applicant or recipient.

- (2) Subtract a \$20 disregard unless all the unearned income is based on financial need (such as a VA pension).
- (3) Deduct an allocation for each ineligible/non-applicant child in the household for whom the applicant(s) or recipient(s) is financially responsible. The amount of each allocation is equal to the Maximum Allocation Amount minus any countable income the child has of his/her own. If the unearned income is not at least equal to the applicable allocation amount, any remaining allocation may be deducted from earned income.
- (4) Deduct from unearned income the amount(s) used to comply with the terms of court-ordered support or Title IV-D support payments. If unearned income is insufficient, any remaining amounts may be deducted from earned income.
- (5) Determine and combine the applicant/recipient's(s') countable earned income including that of the ineligible or non-applicant spouse.
- (6) Deduct any remaining amount of the \$20 disregard, allocations for ineligible/non-applicant children and child support payments from the earned income.
- (7) Deduct \$65 from the remaining earned income.
- (8) Deduct any allowable work expenses for the disabled. (See Deductions from Earned Income of Work Expenses.)
- (9) Deduct one-half (1/2) of the remaining earned income.
- (10) Deduct any allowable work expenses for the blind. (See Deductions from Earned Income of Work Expenses.)
- (11) Combine the remaining earned income with any remaining unearned income.
- (12) The result is the individual's or couple's net countable income for the month.

M 243.1

It appears that the petitioner received all the deductions to which he is entitled by the regulations. However, his income is still over the protected income level (P.I.L.) As such he can only become eligible for Medicaid if and when his medical expenses equal the difference between the net income and the P.I.L. over a six month period (the "spend-down" amount). M 250.1. Although the petitioner has produced substantial medical expenses in the form of insurance payments, he has not shown yet that the expenses equal the spend down amount and so must be found ineligible for Medicaid until that amount is met.

The petitioner is a person of very limited income and does come close to being Medicaid eligible. It is not difficult to believe that he has medical expenses every month which he has difficulty in meeting. Unfortunately, however, unless a legislative decision is made to increase the relatively low ceiling on eligibility for Medicaid benefits, he and persons in his income group cannot be found eligible for this program unless they incur rather substantial medical bills. As the Department's decision is in accord with its regulations in this matter, however, it must be affirmed. 3 V.S.A. 2 3091(d).

FOOTNOTES

¹As the petitioner made no allegation that the adult child who lives with him is disabled, aged, blind or himself the caretaker of a dependent child, he may not be included in the group. # # #